

FISCAL NOTE

Bill #: HB0746

Title: Local approval under sanitation in subdivisions laws

Primary Sponsor: Lewis, D

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
-------------------	------	---------------------------------	------

Fiscal Summary

	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
Expenditures:		
State Special Revenue	(\$335,688)	(\$707,063)
Revenue:		
State Special Revenue	(\$369,375)	(\$738,750)
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|---|--|
| <input checked="" type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input checked="" type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

SUBDIVISIONS REVIEW SECTION

1. The Department of Environmental Quality, Subdivisions Review Section, would no longer review subdivision applications for five or fewer lots. All counties would take on this responsibility. Using historic application numbers over five years, it is projected that 430 lots per year from non-contracted counties and 1800 lots per year from contracted counties at a cost of \$250 each, totaling \$557,500 (430 + 1,800 = 2,230, 2,230 lots x \$250), would not be submitted to the state. Costs in applications are determined by components, types of systems and lots. While there are many different combinations that could occur, the average lot cost is used assuming an individual well and drain field. There is no way to predetermine the content of any specific application.
2. The DEQ Subdivisions Review Section would only review subdivision applications for greater than five lots if requested by the county. Using historic application numbers, it is projected that currently non-contracted counties would continue to annually submit about 350 lots for state review and contracted counties would continue to submit about 1,450 lots, but contracted counties would stop submitting about 725 lots per year at \$250 each, equaling \$181,250 loss in revenue to the state.
3. Total revenue losses to the Subdivisions Review Section would be \$738,750 a year (\$557,500 for 5 lots or less plus \$181,250 for 6 lots or more). The amendments would take effect for any submittal on or after

Fiscal Note Request HB0746, As Introduced
(continued)

January 1, 2004. Staff would need to complete all applications submitted up to that date, requiring another 60 days of full staff. Reductions in revenue for FY 2004 would be for six months (\$738,750 /2 = \$369,375. For FY 2005 reductions in revenue would be \$738,750 for a full year:

4. The DEQ would no longer reimburse counties for reviews, reducing payments to counties by ½ year in FY2004 or \$159,600 and a full year in FY 2005 or \$319,199.
5. Staff reductions would be necessary to equal the reduced revenue. FTE would be reduced in the second half of FY 2004 by 2.25 FTE (\$143,094) and continue in FY 2005 by 5.50 FTE (\$312,205).
6. Reduction in Force implementation would result in reduced services to counties and consultants in the form of training, information responses and direct contact with reviewers: operating costs would be reduced by \$66,681 in FY 2004 and by \$133,636 in FY 2005.

PUBLIC WATER SUPPLY SECTION

7. Thirty subdivision applications with proposed new public water supply systems, or with proposed modifications to existing public water supply systems, will be received each fiscal year.
8. Subdivisions Review Section in DEQ will continue to review applications for proposed new public sewage systems and for modification to existing public sewage systems in subdivisions.
9. The Subdivision Review Section or a local department of health, not the Public Water Supply Section in the DEQ will act as the review authority for subdivision applications.
10. Local departments of health will act as the review authority for two-thirds of the applications referenced in assumption # 7 above.
11. The review time for one-half of the applications sent to the Public Water Supply Section by local departments of health will be 40 days or less. All applications from local departments of health must be reviewed within 55 days.
12. Because of the shortened available review time, the PWS Section would need an additional 0.50 FTE environmental engineering specialist to be devoted completely to plan review. PWS has no flexibility in reducing its review time to less than 60 days. There is \$19,739 for personal services each year and \$13,948 in FY 2004 and \$11,948 in FY 2005 for operating expenses (8,948 in fixed costs-rent, MT Prime, indirect costs, \$2,000 in travel, \$1,000 in supplies, and \$2,000 in FY 2004 for a computer).

FISCAL IMPACT:

DEQ Program 50

	<u>FY 2004</u> <u>Difference</u>	<u>FY 2005</u> <u>Difference</u>
FTE		
• Subdivision Review Section	(2.25)	(5.50)
• Public Water Supply Section	<u>0.50</u>	<u>0.50</u>
TOTAL	(1.75)	(5.00)

Expenditures:

Personal Services

• Subdivision Review Section	(\$143,094)	(\$312,205)
• Public Water Supply Section	<u>19,739</u>	<u>19,739</u>
Sub Total	(\$123,355)	(\$292,466)

Operating Expenses

• Subdivision Review Section	(\$66,681)	(\$107,346)
• Public Water Supply Section	13,948	11,948

Grants to Counties

	<u>(159,600)</u>	<u>(319,199)</u>
Sub Total	<u>(\$212,333)</u>	<u>(\$414,597)</u>
TOTAL	(\$335,688)	(\$707,063)

Fiscal Note Request HB0746, As Introduced
(continued)

Funding of Expenditures:

State Special Revenue (02)	(\$335,688)	(\$707,063)
----------------------------	-------------	-------------

Revenues:

State Special Revenue (02)	(\$369,375)	(\$738,750)
----------------------------	-------------	-------------

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

State Special Revenue (02)	(\$33,687)	(\$31,687)
----------------------------	------------	------------

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. This bill requires local governments to establish a fee structure for supporting the review process locally.

LONG-RANGE IMPACTS:

1. The decreased FTE required to accomplish this reduction in state workforce in the Subdivisions Review Section will continue indefinitely. The increased FTE to accomplish the compressed timeframe in the Public Water Supply Section will continue indefinitely.
2. The increased workload to counties will cause currently non-contracted counties to add staff or to contract for review of, at a minimum, subdivisions of five lots or less. Historic review records indicate the counties most likely affected are: Beaverhead, Big Horn, Blaine, Broadwater, Carter, Choteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Garfield, Glacier, Golden Valley, Granite, Hill, Judith Basin, Liberty, Madison, McCone, Mineral, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Teton, Toole, Treasure, Valley, Wheatland, and Wibaux Counties. Currently, only 14 counties contract for subdivision review and would continue at some level: Carbon, Cascade, Flathead, Gallatin, Jefferson, Lake, Lewis and Clark, Meagher, Missoula, Ravalli, Silver Bow, Stillwater, Sweet Grass, and Yellowstone Counties. Lincoln County historically has contracted for review, but currently has lost its expertise.

TECHNICAL NOTES:

1. Section 2(5)(c) requires the reviewing authority to hire or contract with a professional engineer or sanitarian to conduct the subdivision reviews. Because water quality and other environmental issues are often involved, the reviewing authority also must hire or contract with other persons, such as hydrologists, to participate in reviews.
2. Section 2(6) applies to local and state review procedures for subdivisions that have public water or sewer systems. The first sentence of Section 2(6) prohibits local authorities from reviewing public systems. This prohibition conflicts with 75-6-121, MCA, of the Public Water Supply Act, which authorizes the DEQ to delegate review of certain public systems.
3. The second sentence of Section 2(6) requires local reviewing authorities to send a copy of subdivision applications to the department within five days of receipt. The intent may be to limit this transmittal to applications containing proposed public systems. However, this limitation is not spelled out. As drafted, the sentence would require the local reviewer to send copies of all subdivision applications to the department, not just those with public systems.
4. The third sentence of Section 2(6) requires the local reviewing authority to notify the department, within 50 days of local receipt of a subdivision application, of the local "recommendation for approval or disapproval." However, there appears to be no purpose for such a recommendation under this bill. If the local reviewer has authority to do sanitation act review, it has exclusive authority. In that case, the

Fiscal Note Request HB0746, As Introduced
(continued)

department has no authority to make a decision under the sanitation act, and there would be no need for a "recommendation" from the local reviewer. The local reviewer also could not make a "recommendation" about the PWS issues, because the bill prohibits the local reviewer from reviewing public systems.

5. The last sentence of Section 2(6) states that, when a local review is done under the sanitation act, the department may only "condition a certificate of subdivision approval" based on PWS issues. However, the bill generally provides that, if a local reviewer has sanitation act jurisdiction over an application, the department has no jurisdiction under that act for that application. Therefore, if a local reviewer does the sanitation act review for an application, there would be no department issuance of a "certificate of subdivision approval" for that application. Department review in that case would be under the PWS statutes, not the sanitation in subdivisions act.
6. The sixty-day time limit in Section 2(6) for the department's public water supply review should be put in this statute or in the public water supply act (Title 75, Chapter 6, part 1), the statute under which the review would occur.
7. Section 5(1) amends the law to provide that an appeal of a notice of violation issued by a local reviewing authority is to the governing body of the local reviewing authority, rather than to the local reviewing authority itself. However, Section 5(3) provides that an appeal of local reviewing authority's revocation of a certificate of approval is to the local governing authority.
8. Section 9 appropriates \$50,000 each fiscal year to the department to perform the functions in Section 3 as amended. Current authority in HB 2 is sufficient for the 2005 biennium.